

Amendment filed 05/16/2008 is acknowledged. Claims 1,3,4,6-13,16,18-20 are canceled. Claims 2,5,14,15,17 are pending. Claim 7 as amended to be dependent on claim 2 is now a part of elected group.

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The amendment filed on 05/16/2008 amending the pending claims so that they are now drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because the claims as amended require method step not required in the claims originally elected. Claim 2 now includes the step of “selecting an LXR agonist that exhibits a greater effect on expression of an inflammatory gene than on expression of a lipid metabolism gene”. The claims as they were addressed in the first Office action on merits were not directed to use of agonists that are predetermined to exhibit a greater effect on expression of an inflammatory gene than on expression of a lipid metabolism gene. This is reflected in the art rejections applied that are directed to use of LXR agonists that inherently possess the effect as claimed.

Furthermore, it should be noted that the claims as amended are viewed as containing new matter as the specification does not support the claims language as amended. Applicant refers to paragraph [0080] as providing sufficient support. However said paragraph is not directed to describing a method step of selecting agonists that exhibit a greater effect on expression of a certain inflammatory gene than

on expression of a certain lipid metabolism gene. Rather, said paragraph describes the effect on gene expression that happened to be observed upon applying to LPS-activated macrophages a particular agonist, GW3965. Not only said paragraph does not describe "selecting" an agonist, it does not describe an agonist that can be described as having an effect that is greater expression of some inflammatory gene than on expression of some lipid metabolism gene. Rather, the paragraph seems to describe that in particular type of cells, the agonist GW3965 effects expression of inflammation- and lipid metabolism - related genes in opposite directions, attenuating and augmenting, respectively (although the conclusions made in the paragraph rely on Table I which titled "Genes not altered by ligand GW3965).

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a). Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Borin whose telephone number is (571) 272-0713. The examiner can normally be reached on 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marjorie Moran can be reached on (571) 272-0720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1631

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/Michael Borin, Ph.D./  
Primary Examiner, Art Unit 1631

mlb